

UNITED STATES DISTRICT COURT  
DISTRICT OF MASSACHUSETTS

UNITED STATES OF AMERICA

v.

MARK JOSEPH AHN

Defendant

No. 21-cr-10047-RGS

MOTION FOR ALTERNATIVE NOTIFICATION OF VICTIMS

The United States respectfully moves this Court, under 18 U.S.C. § 3771(d)(2), for authorization to use alternative victim notifications procedures, in light of the large number of possible victims in this case who cannot be readily identified. In support of this motion, the government states the following:

1. Under 18 U.S.C. § 3771, crime victims have various rights, among them the right to “reasonable, accurate, and timely notice” of court proceedings. 18 U.S.C. § 3771(a). The statute defines a crime victim as “a person directly and proximately harmed as a result of the commission of a Federal offense,” 18 U.S.C. § 3771(e), and recognizes that, for crimes involving multiple victims, the Court has discretion to adopt procedures that will not unduly interfere with ongoing criminal proceedings:

In a case where the Court finds that the number of crime victims makes it impracticable to accord all of the crime victims the rights described in subsection (a), the Court shall fashion a reasonable procedure to give effect to this chapter that does not unduly complicate or prolong the proceedings.

18 U.S.C. § 3771(d)(2).

2. In the case, the defendant has pleaded guilty to committing securities fraud through trading while in possession of material non-public information. Conceivably, given the

definition of “victim” under Section 3771(e), any person who sold shares of Dimension Therapeutics (DMTX) in August 2017 when the defendant bought shares could be a victim. *See, e.g., United States v. I. Joseph P. Nacchio*, No. 05-cr-00545-EWN, 2007 U.S. Dist. LEXIS 115688, at \*5-6 (D. Colo. July 23, 2007) (explaining that any person who bought shares on the days when an insider trading defendant was selling the shares could be regarded as a victim).

3. Based on the trading volume of DMTX in August 2017, the government believes that there are numerous potential investor victims, as that term is defined by the statute. The United States does not know precisely how many of these investors would qualify as victims, and, even if the government could identify each investor at this point, it would be impossible to give them all individual notice under 18 U.S.C. § 3771.

4. The alternative victim notification methods suggested by the government are as follows:

a. The United States Attorney’s Office for the District of Massachusetts (“USAO”) maintains a website at:

<https://www.justice.gov/usao-ma/victim-and-witness-assistance-program>.

The USAO will post publicly available information about the case on this website and provide contact information to potential victims. The notification will read substantially as follows.

The defendant in the above-referenced action has pleaded guilty to securities fraud in July and August, 2017, by trading in the stock of Dimension Therapeutics, Inc. (symbol: DMTX) while in possession of material nonpublic information about merger and acquisition activity involving Dimension Therapeutics, Inc. If you traded in shares of DMTX in July and/or August, 2017, and believe you might have been directly and proximately harmed as a result of the commission of the crime of securities fraud in this case, please send notice to the government using the following email address by **May 21, 2021**: USAMA.VictimAssistance@usdoj.gov. In your email, please indicate the transaction details for your trade(s), to include the date(s), the number of shares, the price, whether you bought or sold, and your assessment of your gains or

losses. Please also indicate whether you have any supporting documents and a victim assistance specialist will assist you in providing them in a secure manner.

b. The government will issue one or more press releases informing the public about the USAO website.

c. Depending on the case event for which the government is trying to give notice, the government may try to develop a system in which it can send “blast emails” to those alleged victims for whom it obtains email addresses.

5. Ample precedent, including in this Court, exists to use alternative notification procedures under the CVRA in such a situation. *See, e.g., United States v Babich*, 301 F. Supp. 3d 213, 217-18 (D. Mass. 2017) (granting government request for alternative notification procedures in healthcare fraud prosecution but with restrictions on the information to be conveyed to potential victims); *United States v. Merrill*, No. 14-40028-TSH, 2014 WL 6387368, at \*2 (D. Mass. Nov. 14, 2014) (similar); *see also United States v. Bondarenko*, No. 2:17-CR-306-JCP-PAL, 2018 WL 1413972, at \*2 (D. Nev. 2018) (granting government’s motion to notify victims pursuant to the CVRA via the Justice Department’s website in case involving the “large-scale trafficking of compromised credit card data”); *United States v. Saferstein*, No. 07-CR-557, 2008 WL 4925016, at \*3-4 (E.D. Pa. Nov. 18, 2008).

6. As noted above, at this stage it is impossible to identify each potential victim in this case and give that person or entity individualized notice of court proceedings and related events. The government submits that the procedures outlined above are a reasonable alternative to the standard requirements of 18 U.S.C. § 3771 and will give effect to the victim protection act without unduly complicating or prolonging the criminal proceedings.

7. The government has conferred with counsel for the defendant about this motion; and the government understands the defendant to oppose alternative notification of victims in this case for multiple reasons.

Accordingly, the United States requests that the Court (a) find that the procedures listed in Paragraph 4, above, are a reasonable means of satisfying the government's obligations under 18 U.S.C. § 3771 and (b) authorize the government to implement those procedures as alternative methods for notifying potential victims in this case.

Respectfully submitted,

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**CERTIFICATE OF SERVICE**

I hereby certify that this document filed through the ECF system will be sent electronically to the registered participants as identified on the Notice of Electronic Filing (NEF) and paper copies will be sent to those indicated as non-registered participants .

/s/Kriss Basil  
Kriss Basil  
Assistant United States Attorney

Date: April 13, 2021